

REMARKS/ARGUMENTS

These remarks are made in response to the final Office Action of August 21, 2007 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

In the Office Action, Claim 15 was objected to due to an informality. Claims 1, 3, 4, 6-8, 10, 11, 13, 15, 16, 18-20, 22, and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application 2003/0225600 to Slivka, *et al.* (hereinafter Slivka) in view of U.S. Published Patent Application 2003/0144867 to Campbell, *et al.* (hereinafter Campbell), in further view of U.S. Published Patent Application 2004/0199411 to Bertram, *et al.* (hereinafter Bertram). Claims 5 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka in view of Campbell and Bertram, and further in view of U.S. Published Patent Application 2002/0133456 to Lancaster, *et al.* (hereinafter Lancaster). Claims 9 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka in view of Campbell and Bertram, and further in view of U.S. Published Patent Application 2002/0082878 to Boies, *et al.* (hereinafter Boies). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Slivka in view of Campbell and further in view of Bertram.

Objections to the Claims

As noted above, Claim 15 was objected to in the Office Action due to an informality. In this response, Claim 15 has been amended solely to make the required correction, as suggested in the Office Action. Accordingly, Applicant respectfully requests withdrawal of this objection.

Applicants' Invention Predates Bertram

In the Office Action, the pending claims were rejected as being unpatentable in view of Bertram. Applicants respectfully disagree. Applicants respectfully submit, however, that any rejection based on Bertram, alone or in combination with any other reference or record, is moot because Applicants' invention predates the April 4, 2003 effective date of Bertram.

Applicants conceived of their invention at least as early as February 17, 2003 and actively pursued its reduction to practice from a date prior to the effective date of Bertram. In support of their assertion, Applicants submit the Declarations attached hereto in accordance with 37 CFR § 1.131. The Declarations establish conception and continuing diligence from a time prior to the effective date of Bertram to the filing of the Application.

Along with these Declarations, Applicants also submit herewith as Exhibit "A", a copy of Confidential Invention Disclosure No. BOC8-2003-0033, titled "A business process to provide airline customer service personnel with real time financial information to aid in determining how to process passenger rebookings" (hereinafter Disclosure). The Disclosure was submitted on February 17, 2003, by Applicants to an intellectual property (IP) professional employed by the assignee of Applicants' invention, International Business Machines Corporation (IBM). The Disclosure was insubstantially modified on February 18, 2003. The description of the invention itself, however, was not modified after the Disclosure was initially submitted. Indeed, as noted below, established IBM procedures for handling all such disclosures preclude any modification to the description of the invention once it has been submitted by an inventor. The Disclosure has not been revised subsequent to February 18, 2003.

The Disclosure explicitly describes Applicants' invention. The written description provided in the Disclosure is clear evidence of Applicants' conception of the claimed

subject matter at least as early as February 17, 2003. The Disclosure is an IBM confidential disclosure form. As such, it is a standardized document that, according to established IBM procedures, is used by IBM inventors to document the conception of an invention. Strictly-followed internal procedures established by IBM govern the use of all such confidential disclosure forms. One aspect of IBM's established procedures governing the use of such confidential disclosure forms is that no substantive modifications can be made to a confidential disclosure after it has been submitted to an IBM Attorney/IP Professional.

The written description and each of the claims of the Application were prepared based upon the Applicants' attached Disclosure. Moreover, according to IBM's established procedures governing the use of such disclosures, the inventors reviewed the Application prior to its submission to the U.S. Patent and Trademark Office in order to ensure that the claims and written description contained therein were fully supported by the Disclosure.

Applicants exercised due diligence from a date prior to the effective dates of Bertram to the date that the Application was filed. As expressly affirmed in the Declarations, Applicants from at least February 17, 2003, through the filing of the Application on December 9, 2003, worked diligently toward a constructive reduction to practice of the invention. Applicants initially worked with IBM's own in-house IP professionals during an internal review of the invention, including assessing the invention in the context of related literature. Subsequently, Applicants worked with outside counsel retained by IBM to prepare and file the Application.

Outside counsel prepared the Application consistent with long-established professional practices, according to which cases are prepared on a first-in, first-out basis unless a particular application is associated with a bar date; those applications associated

with bar dates are granted priority within the work queue. Outside counsel followed this professionally-accepted practice in preparing the Application in this case.

Evidence of Applicants' due diligence is submitted herewith in the form of various documents. Exhibit "B" is a report dated April 14, 2003 of a professional search conducted by an outside consultant and prior to IBM requesting outside counsel to prepare the Application. Exhibit "B" is stamped as having been received by in-house counsel at Applicants' location (Boca Raton) on April 15, 2003. Exhibit "C" includes a copy of a report from Inventor Bramnick, dated May 1, 2003, responding to results of the search report. Exhibit "D" is a letter from IBM counsel requesting outside counsel to prepare the Application, the letter being dated May 7, 2003. Exhibit "E" is a May 9, 2003 letter from outside counsel to IBM counsel confirming receipt of instructions. Exhibit "F" is a series of email communications occurring between November 26, 2003 and December 2, 2003 regarding Applicants' review and approval of the Application drafted by outside counsel. Final approval of the Application is evidenced by Applicants' signatures dated between December 2, 2003 and December 8, 2003 on the Declaration and Power of Attorney filed with the Application on December 9, 2003 (a copy is included in this response as Exhibit "G").

Applicants respectfully submit that it was reasonable for them to rely on outside counsel in preparing the Application, and that outside counsel acted with diligence, notwithstanding the constraints of other work obligations, in preparing the Application. Applicants further respectfully submit that the evidence of specific activity on specific dates clearly evinces Applicants' prior conception and diligence in pursuing a reduction to practice from a time prior to the effective date of Bertram. Applicants therefore respectfully request withdrawal of the rejections relying on Bertram.

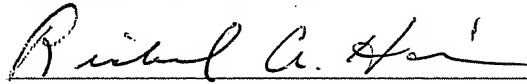
CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

AKERMAN SENTERFITT

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